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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/767,821	01/24/2001	Maximilian Angel	51162	2188
26474	7590	07/14/2004	EXAMINER	
KEIL & WEINKAUF 1350 CONNECTICUT AVENUE, N.W. WASHINGTON, DC 20036			WELLS, LAUREN Q	
			ART UNIT	PAPER NUMBER
			1617	

DATE MAILED: 07/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/767,821

Applicant(s)

ANGEL ET AL.

Examiner

Lauren Q Wells

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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### **DETAILED ACTION**

Claims 1-3 and 10 are pending. The Amendment filed 12/17/03, cancelled claims 7 and 11-17.

#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/25/04 has been entered.

#### ***Priority***

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on 2/9/00. It is noted, however, that applicant has not filed a certified copy of the German application as required by 35 U.S.C. 119(b).

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB 922,459 in view of Wu et al. (5,338,814).

The instant invention is directed process for preparing graft copolymers of polyvinyl esters by polymerization of a vinyl ester of C1-C24 aliphatic carboxylic acids in the presence of

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polyethers of formula (I), and where appropriate, at least one other monomer using a free-radical initiator system.

GB '459 teach a process for the manufacture of modified polyvinyl alcohols. It is disclosed that it is known to make polyvinyl alcohols by subjecting a graft polymer prepared from one or more vinyl esters and a compound copolymerizable with those vinyl esters, on a polyalkylene glycol under the influence of a free radical forming polymerization initiator. Example 1 discloses a process for preparing a graft polymer comprising heating a solution of vinyl acetate, polyethylene glycol and a free radical initiator (dibenzoyl peroxide), and adding the residual portion of the solution in a drop-wise manner after the polymerization had set in. The reference discloses its graft copolymer for use in cosmetic products. The reference fails to teach a liquid polyalkylene glycol having a MW between 88 and 1000. See pg. 1-pg. 3, line 35; pg. 4-pg. 5.

Wu et al. teach a process for making narrow molecular weight distribution polyvinylpyrrolidone K-90 polymers. PEG-300 is taught as a chain transfer agent that functions by terminating a growing chain by providing a more labile hydrogen atom to the growing chain to control the molecular weight distribution of the polymer obtained. PEG-300 provides an alternative termination process which is not expected to be hindered by viscosity buildup during polymerization, thus preventing the growth of high molecular weight molecules and reducing the breadth of the distribution. See Col. 1, line 34-Col. 2, line 61.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to teach the PEG of '459 as PEG-300, as taught by Wu et al., because of the expectation of achieving a process of making graft copolymers of polyvinyl esters, wherein the

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molecular weight distribution of the copolymer is controlled and reduced, and wherein the termination process is not hindered by viscosity buildup.

***Response to Arguments***

The instant arguments are over GB 922,459, which is not relied upon in the instant rejection. Thus, the instant arguments are moot.

***Conclusion***

This is an RCE of applicant's earlier Application No. 09/767,821. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

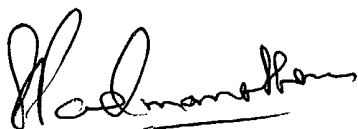
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lauren Q Wells whose telephone number is 571-272-0634. The examiner can normally be reached on M&R (5:30-4).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

lqw

  
SREENI PADMANABHAN  
SUPERVISORY PATENT EXAMINER